

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

RUBEN ARROYO,	:	Case No. 1:08-WF-17980
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
HOBART BROS. CO.,	:	
	:	
Defendant	:	Judge Jack Zouhary
	:	
	:	<u>MEMORANDUM &amp; ORDER</u>
	:	

On March 2, 2010, the Court held hearings on the record on the pretrial motions filed in this case, and entered rulings on many of those motions. This Order documents those rulings made during the final pretrial hearing, *solely* for the purpose of ensuring the docket no longer shows the motions as pending. For the reasons and to the extent stated on the record, and with the conditions and caveats there explained, the Court ruled as follows:<sup>1</sup>

- Dkt. 119      Hobart's Motion for Summary Judgment on Arroyo's Claim for Punitive Damages is **denied**.
- Dkt. 120      Hobart's Motion to Exclude Testimony of Dr. Motgi is **denied**, and the parties will submit case-law to the Special Master as directed.

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<sup>1</sup> All denials of motions regarding admissibility are without prejudice to the parties' right to raise appropriate objections at trial and on appeal. This Order merely documents the Court's rulings in highly simplified fashion; the full contours of the Court's rulings were set out on the record during the hearing, and during previous hearings in this MDL, all of which are incorporated into this record by reference.

- Dkt. 121 Hobart's Motion to Exclude Testimony of Dr. Foox is **denied**.
- Dkt. 122 Hobart's Motion to Exclude Testimony of Dr. Rodgers is **denied**.
- Dkt. 123 Hobart's Motion to Exclude Testimony of Dr. Ulrich is **denied**.
- Dkt. 138 Hobart's Motion to Exclude Testimony of Dr. English is **denied**.
- Dkt. 126 Hobart's Motion to Exclude Testimony of Dr. Baril is **granted in part and denied in part**.
- Dkt. 135 Hobart's Motion to Exclude Argument re: Comparative Fault is **granted**; however, the Court reserves ruling regarding the content of jury interrogatories.
- Dkt. 136 Hobart's Motion to Exclude use of the term "Anti-Warning" is **denied**.
- Dkt. 137 Hobart's Motion to Exclude Evidence or Argument Regarding Design Defect is **granted as unopposed**.
- Dkt. 139 Hobart's Motion to Exclude LaFave Emails is **denied as moot**.
- Dkt. 140 Hobart's Motion to Exclude the "What Is Welding Fume" PowerPoint is **denied as moot**.
- Dkt. 142 Hobart's Motion to Exclude certain "Historical Documents" is **denied**.
- Dkt. 143 Hobart's Motion to Exclude the "Railcar Brochure Email" is **denied as moot**; plaintiffs will depose Grant Harvey and raise the issue again thereafter if appropriate.
- Dkt. 145 Hobart's Motion to Exclude the "1967 Shutt Letter" is **denied as moot**.
- Dkt. 146 Hobart's Motion to Exclude the "1967 Thomas Memo" is **denied**.
- Dkt. 179 Hobart's Motion for Determination of Authenticity is **granted**.
- Dkt. 125 Arroyo's Motion to Exclude Testimony of Dr. Sethi is **denied**.

Dkt. 130 Arroyo's Omnibus Motion to Exclude Various Evidence is **granted in part and denied in part.** Further, the parties will submit additional information regarding the relationship between Trinity Industries and Trinity Tank Car, in connection with (a) motion item 13 (non-welding-consumable MSDSs at Trinity Industries) and (b) motion item 9 (the 1988 OSHA violation at Trinity).

**IT IS SO ORDERED.**

/s/ Jack Zouhary

**JACK ZOUHARY**

**UNITED STATES DISTRICT JUDGE**

**DATED:** March 5, 2010